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UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO IL 60610

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**AUG 15 2007**

**OFFICE OF PETITIONS**

In re :  
Application No. 10/626,462 :  
Laurie Holtzberg : LETTER REGARDING  
Filed: July 23, 2003 : PATENT TERM ADJUSTMENT  
Attorney Docket No. 8285-636 :

This is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed July 3, 2007. Applicants disclose that the patent term adjustment pursuant to 35 U.S.C. 154(b) of 395 days indicated on the Determination of Patent Term Adjustment, PTOL-85, may extend the term of the patent by too many days.

The request for review of the patent term adjustment (PTA) is DISMISSED to the extent that it requests correction of the patent term adjustment.

On April 4, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 395 days. Applicants state no basis for their assertion that the PTA may extend the term of the patent by too many days.

A review of the application history supports a conclusion that the initial Determination of Patent Term Adjustment is correct. It is noted that a terminal disclaimer was filed in this application on December 27, 2006. This has no effect on the determination of patent term adjustment set forth on any patent issuing from this application. 35 U.S.C. 154(b)(2)(B) provides that:

No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

37 CFR § 1.703(g) provides that:

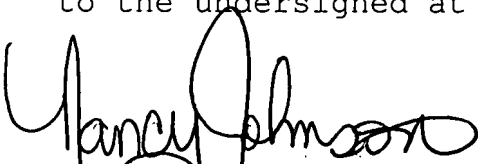
No patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under § 1.702 and this section beyond the expiration date specified in the disclaimer.

The provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 CFR § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

As this letter was submitted as an attempt to advise the Office of an error in Applicants' favor, the Office will not assess the \$200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a stylized flourish at the end.

Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions